



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,451	02/01/2001	Howard Lynn Lincecum	9592.003	8184

33222 7590 09/30/2003

JONES, WALKER, WAECHTER, POITEVENT, CARRERE  
& DENEGRE, L.L.P.  
5TH FLOOR, FOUR UNITED PLAZA  
8555 UNITED PLAZA BOULEVARD  
BATON ROUGE, LA 70809

EXAMINER
----------

AUGHENBAUGH, WALTER

ART UNIT	PAPER NUMBER
----------	--------------

1772

15

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/775,451

Applicant(s)

LINCECUM, HOWARD LYNN

Examiner

Walter B Aughenbaugh

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 16 July 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): See continuation sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-4,6-8,11,18 and 19.Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## **ADVISORY ACTION**

### ***Acknowledgement of Applicant's Amendments***

1. The amendment to the abstract made in the After Final Amendment filed September 11, 2003 (Paper 14) has been acknowledged and entered by Examiner.
2. The cancellation of claims 9 and 10 in Paper 14 has been acknowledged and entered by Examiner. Claims 5 and 12-17 were cancelled in the Amendment filed January 3, 2003 (Paper 9).

### ***WITHDRAWN OBJECTIONS***

3. The objection to the abstract made of record in paragraph 5 of Paper 6 and repeated in paragraph 4 of Paper 11 has been withdrawn due to Applicant's amendment to the abstract in Paper 14.

### ***WITHDRAWN REJECTIONS***

4. The 35 U.S.C. 112 rejection of claim 10 made of record in paragraph 7 of Paper 6 and repeated in paragraph 14 of Paper 11 has been withdrawn due to Applicant's cancellation of claim 10 in Paper 14.
5. The 35 U.S.C. 112 rejection of claims 9 and 10 made of record in paragraph 17 of Paper 11 has been withdrawn due to Applicant's cancellation of claims 9 and 10 in Paper 14.
6. The 35 U.S.C. 103 rejection of claims 9 and 10 over Sugimoto et al. in view of Patel et al. made of record in paragraph 18 of Paper 11 has been withdrawn due to Applicant's cancellation of claims 9 and 10 in Paper 14.

Art Unit: 1772

***REPEATED REJECTIONS***

7. The 35 U.S.C. 103 rejection of claims 1-4, 6-8 and 11 over Sugimoto et al. is repeated for the reasons previously of record in paragraph 11 of Paper 6.

8. The 35 U.S.C. 103 rejection of claims 18 and 19 over Sugimoto et al. is repeated for the reasons previously of record in paragraph 19 of Paper 11.

***Conclusion***


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 703-305-4511. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

wba  
09/25/03

WBA

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

9/25/03